

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No.	CV 13-7481 PSG (ASx)	Date	November 5, 2013
Title	Great American Life Insurance Company v. Eric Carl Kreis, <i>et al.</i>		

Present:	The Honorable Philip S. Gutierrez, United States District Judge		
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Wendy K. Hernandez	Not Present	n/a
Deputy Clerk	Court Reporter	Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

**Proceedings: (In Chambers) Order to Show Cause re: Dismissal for Lack of  
Subject Matter Jurisdiction**

This action was filed in this Court on October 9, 2013. However, it appears the Court may lack subject matter jurisdiction.

The interpleader statute, 28 U.S.C. § 1335, gives the federal courts subject matter jurisdiction where “[t]wo or more adverse claimants, of diverse citizenship as defined in subsection (a) or (d) of section 1332 of this title, are claiming” the same money or property. Here, it is not clear that Interpleader Defendants Eric Carl Kreis (“Kreis”) and Peter Zambouros, as the Executor of the Estate of Polly Kessen (the “Executor”) are diverse for the purposes of 28 U.S.C. § 1332, for two reasons.

First, Interpleader Plaintiff Great American Life Insurance Company (“GALIC”) pleads that Kreis is a resident of California. However, jurisdiction is based on citizenship, not residency. GALIC must plead Kreis’s citizenship.

Second, the executor of an estate, when sued in his official capacity, adopts the citizenship of the decedent. 28 U.S.C. § 1332(c)(2) (“[T]he legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent[.]”). Here, GALIC pleads that the Executor is a resident of New York. However, because the Executor is being sued in his capacity as the representative of the Estate of Polly Kessen, the relevant issue is the decedent’s state of citizenship.

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The Court orders GALIC to show cause in writing no later than **December 5, 2013** why this action should not be dismissed without prejudice for lack of subject matter jurisdiction. Failure to respond by the above date will result in the Court **dismissing** this action.

The Court further orders GALIC to promptly serve this minute order on any defendant who has been served with the complaint, or who is served before the date specified above.

**IT IS SO ORDERED.**